

§ 334.1

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FR 70664, Nov. 22, 2005, the effective date was delayed until Apr. 1, 2006. For the convenience of the user, the revised text is set forth as follows:

AUTHORITY: 12 U.S.C. 1819 (Tenth) and 1818; 15 U.S.C. 1681b and 1681s.

2. At 70 FR 70685, Nov. 22, 2005, the authority citation for part 334 was revised, effective Apr. 1, 2006. For the convenience of the user, the revised text is set forth as follows:

AUTHORITY: 12 U.S.C. 1819(Tenth) and 1818; 15 U.S.C. 1681b and 1681s.

SOURCE: 69 FR 77618, Dec. 28, 2004, unless otherwise noted.

Subpart A—General Provisions

SOURCE: 70 FR 70685, Nov. 22, 2005, unless otherwise noted.

EFFECTIVE DATE NOTE: At 70 FR 70685, Nov. 22, 2005, subpart A was added, effective Apr. 1, 2006. At 70 FR 75931, Dec. 22, 2005 the amendatory instruction was corrected to revise subpart A. For the convenience of the user, the added text is set forth as follows:

§ 334.1 [Reserved]

§ 334.2 Examples.

The examples in this part are not exclusive. Compliance with an example, to the extent applicable, constitutes compliance with this part. Examples in a paragraph illustrate only the issue described in the paragraph and do not illustrate any other issue that may arise in this part.

§ 334.3 Definitions.

As used in this part, unless the context requires otherwise:

(a) *Act* means the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*).

(b) *Affiliate* means any company that is related by common ownership or common corporate control with another company.

(c) [Reserved]

(d) *Company* means any corporation, limited liability company, business trust, general or limited partnership, association, or similar organization.

(e) *Consumer* means an individual.

(f) [Reserved]

(g) [Reserved]

(h) [Reserved]

(i) *Common ownership or common corporate control* means a relationship between two companies under which:

(1) One company has, with respect to the other company:

(i) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting security of a company, directly or indirectly, or acting through one or more other persons;

(ii) Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of a company; or

(iii) The power to exercise, directly or indirectly, a controlling influence over the management or policies of a company, as the FDIC determines; or

(2) Any other person has, with respect to both companies, a relationship described in paragraphs (i)(1)(i) through (i)(1)(iii) of this section.

(j) [Reserved]

(k) *Medical information* means:

(1) Information or data, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to:

(i) The past, present, or future physical, mental, or behavioral health or condition of an individual;

(ii) The provision of health care to an individual; or

(iii) The payment for the provision of health care to an individual.

(2) The term does not include:

(i) The age or gender of a consumer;

(ii) Demographic information about the consumer, including a consumer's residence address or e-mail address;

(iii) Any other information about a consumer that does not relate to the physical, mental, or behavioral health or condition of a consumer, including the existence or value of any insurance policy; or

(iv) Information that does not identify a specific consumer.

(l) *Person* means any individual, partnership, corporation, trust, estate cooperative, association, government or governmental subdivision or agency, or other entity.

EFFECTIVE DATE NOTES: 1. At 70 FR 33985, June 10, 2005, subpart A was added, effective Mar. 7, 2006. At 70 FR 70664, Nov. 22, 2005, the effective date was delayed until Apr. 1, 2006. For the convenience of the user, the added text is set forth as follows.

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2. At 70 FR 70685, Nov. 22, 2005, subpart A was added, effective Apr. 1, 2006. At 70 FR 75931, Dec. 22, 2005 the amendatory instruction was corrected to revise subpart A. For the convenience of the user, the revised text is set forth above.

Subpart A—General Provisions

§ 334.1 [Reserved]

§ 334.2 Examples.

The examples in this part are not exclusive. Compliance with an example, to the extent applicable, constitutes compliance with this part. Examples in a paragraph illustrate only the issue described in the paragraph and do not illustrate any other issue that may arise in this part.

§ 334.3 Definitions.

As used in this part, unless the context requires otherwise:

(a) *Act* means the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*).

(b) *Affiliate* means any company that is related by common ownership or common corporate control with another company.

(c) [Reserved]

(d) *Company* means any corporation, limited liability company, business trust, general or limited partnership, association, or similar organization.

(e) *Consumer* means an individual.

(f)–(h) [Reserved]

(i) *Common ownership or common corporate control* means a relationship between two companies under which:

(1) One company has, with respect to the other company:

(i) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting security of a company, directly or indirectly, or acting through one or more other persons;

(ii) Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of a company; or

(iii) The power to exercise, directly or indirectly, a controlling influence over the management or policies of a company, as the FDIC determines; or

(2) Any other person has, with respect to both companies, a relationship described in paragraphs (i)(1)(i)–(i)(1)(iii) of this section.

(j) [Reserved]

(k) *Medical information* means:

(1) Information or data, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to—

(i) The past, present, or future physical, mental, or behavioral health or condition of an individual;

(ii) The provision of health care to an individual; or

(iii) The payment for the provision of health care to an individual.

(2) The term does not include:

(i) The age or gender of a consumer;

(ii) Demographic information about the consumer, including a consumer's residence address or e-mail address;

(iii) Any other information about a consumer that does not relate to the physical, mental, or behavioral health or condition of a consumer, including the existence or value of any insurance policy; or

(iv) Information that does not identify a specific consumer.

(l) *Person* means any individual, partnership, corporation, trust, estate cooperative, association, government or governmental subdivision or agency, or other entity.

Subparts B–C [Reserved]

Subpart D—Medical Information

SOURCE: 70 FR 70686, Nov. 22, 2005, unless otherwise noted.

EFFECTIVE DATE NOTE: At 70 FR 70686, Nov. 22, 2005, subpart D was added, effective Apr. 1, 2006. At 70 FR 75931, Dec. 22, 2005 the amendatory instruction was corrected to revise subpart D. For the convenience of the user, the added text is set forth as follows:

§ 334.30 Obtaining or using medical information in connection with a determination of eligibility for credit.

(a) *Scope*. This section applies to:

(1) Any of the following that participates as a creditor in a transaction:

(i) A State bank insured by the FDIC (other than members of the Federal Reserve System);

(ii) An insured State branch of a foreign bank; or

(2) Any other person that participates as a creditor in a transaction involving a person described in paragraph (a)(1) of this section.

(b) *General prohibition on obtaining or using medical information*—(1) *In general*. A creditor may not obtain or use medical information pertaining to a consumer in connection with any determination of the consumer's eligibility, or continued eligibility, for credit, except as provided in this section.

(2) *Definitions*. (i) *Credit* has the same meaning as in section 702 of the Equal Credit Opportunity Act, 15 U.S.C. 1691a.

(ii) *Creditor* has the same meaning as in section 702 of the Equal Credit Opportunity Act, 15 U.S.C. 1691a.